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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JAIME MARES,

Defendant and Appellant.

E071024

(Super.Ct.No. BLF1700185)

OPINION

APPEAL from the Superior Court of Riverside County. Jorge C. Hernandez,
Judge. Affirmed with directions.

Gerald J. Miller, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Jaime Mares was charged by information with possession
of controlled substances in state prison (Pen. Code, § 4573.6, count 1), possession of a
controlled substance for sale (heroin) (Health & Saf. Code, § 11351, count 2), possession
of a controlled substance for sale (methamphetamine) (Health & Saf. Code, § 11378,

count 3), and possession of a controlled substance for sale (marijuana) (Health & Saf. Code, § 11359, count 4). The information also alleged that defendant had three prior strike convictions. (Pen. Code, §§ 667, subds. (c) & (e)(1), 1170.12, subd. (c)(1).) A jury found defendant guilty on all counts. In a bifurcated hearing, a trial court found the prior strike allegations true. Upon the People's motion, the court struck two of the prior strike convictions. The court then sentenced defendant to the upper term of four years on count 2, which it deemed the principal term, plus one-third the middle term of two years (eight months) on both counts 3 and 4, with each term doubled pursuant to the prior strike. The court imposed one-third the middle term of three years on count 1, but stayed the sentence pursuant to Penal Code section 654. Thus, defendant's total sentence was 10 years eight months in state prison, which the court ordered to run consecutive to the sentence he was currently serving. The court then noted that the jail would determine what order defendant would serve the sentences; however, it would not matter since he was currently serving a life sentence without the possibility of parole.

Defendant filed a timely notice of appeal. We affirm.

FACTUAL BACKGROUND

On March 12, 2017, two prison correctional officers were monitoring the surveillance camera of a facility room at Ironwood State Prison. They observed defendant, an inmate, put his hand down the back of his pants. He made several attempts to try and push something up his rectum. During this time, several inmates stood between the camera and defendant in an apparent effort to block the camera's view of defendant. The officers proceeded to go to the visiting room where defendant was

located. As they entered the room, one of the officers observed defendant throw something on the ground. They approached defendant and handcuffed him. One of the officers noticed a bindle on the ground next to defendant, so he picked it up. The other officer performed a clothed body search and discovered another bindle in defendant's back pocket. They escorted him back to their office and into a holding cell to perform an unclothed body search. After defendant removed his clothing, they noticed a clear lubricant around his rectum area and fresh blood there. At trial, one of the officers testified that when inmates attempt to place bindles that are too large up their rectums, they can rupture the rectum area, which results in bleeding.

The officers performed presumptive field tests on the contents of the two bindles. The first bindle contained three smaller, separately wrapped packages. One of the packages tested positive for heroin; one tested positive for methamphetamine; and one tested positive for marijuana. The second bindle contained five smaller packages. Four of the packages tested positive for marijuana, and one of them tested positive for heroin. Subsequently, a criminalist tested the substances and confirmed the above results. Based on his training and expertise, one of the officers testified at trial that the amount of drugs and the type of packaging indicated that defendant definitely possessed the drugs for the purpose of sales. The approximate prison value of the drugs was \$37,396.

ANALYSIS

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and the following potential arguable issues: (1) whether the court properly sentenced defendant to consecutive terms, to commence upon termination of the sentence which he was currently serving; (2) whether the court prejudicially erred by permitting evidence regarding the effects of drugs in the prison setting; (3) whether the court prejudicially erred by permitting evidence that defendant threw the drugs in his possession away, as a showing of consciousness of guilt; (4) whether the court prejudicially erred by instructing the jury about potential other perpetrators of the offenses, pursuant to the People's request; and (5) whether the court properly refused to stay the sentences on counts 3 and 4 under Penal Code section 654, and instead imposed consecutive terms on those counts.

We offered defendant an opportunity to file a personal supplemental brief, which he has not done.

Although not raised by the parties, we note a clerical error. In sentencing defendant, the trial court stated that it doubled defendant's total term pursuant to the prior strike conviction. The abstract of judgment does not reflect that defendant was sentenced pursuant to Penal Code sections 667 or 1170.12. Generally, a clerical error is one inadvertently made. (*People v. Schultz* (1965) 238 Cal.App.2d 804, 808.) A court "has the inherent power to correct clerical errors in its records so as to make these records

reflect the true facts. [Citations.]” (*In re Candelario* (1970) 3 Cal.3d 702, 705.) It is evident that the superior court clerk’s error in failing to mark the box under No. 4 on the abstract of judgment, indicating that defendant was sentenced pursuant to “PC 667(b)-(i) or PC 1170.12 (strike prior),” was inadvertent. Accordingly, we will direct the superior court clerk to correct the abstract of judgment.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error. We have now concluded our independent review of the record and find no arguable issues.

DISPOSITION

The superior court clerk is directed to correct the abstract of judgment by marking the box under No. 4 indicating that defendant was sentenced pursuant to Penal Code section 667, subdivisions (b)-(i), or section 1170.12. The superior court clerk is further directed to forward a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

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McKINSTER
Acting P. J.

We concur:

MILLER
J.

RAPHAEL
J.